IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 22170 of 2004

Between:

Undralla Pullareddy S/o.Nagireddy
Akkapalli (V), Bestavaripeta (M),
Prakasam Dist.

..... PETITIONER

AND

1 The Joint Collector
Ongole, Prakasam Dist.
2 The Revenue Divisional Officer
Markapur, Prakasam Dist.
3 The Mandal Revenue Officer
Bestavaripeta (M), Prakasam Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ mandamus or any other wit, order or direction in the naure of a writ, declaring the order of the 1st respondent passed in RC.CS2/4616/2004 dt 22-11-2004 rejecting the stay application pending appeal filed against the order of the 2nd respondent passed in proceedings RC.H./2096/2004 dt 20-10-2004 suspending the fair price shop authorisation of the petitioner for two months as arbitrary, illegal and violation of principles of natural justice and consequently to set aside the same..

Counsel for the Petitioner:MR.G.PEDDA BABU

Counsel for the Respondents 1 to 3: GP FOR CIVIL SUPPLIES

The Court, at the stage of admission, made the following :

ORDER:

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Petitioner was appointed as a Fair Price Shop Dealer for Akkapalli Village, Bestavaripeta Mandal, Prakasam District. His authorization was suspended by the 2nd respondent through proceedings, dated 20.10.2004, for a period of two months. Petitioner preferred an appeal before the 1st respondent against the same together with an application for grant of stay. Through order, dated 22.11.2004, the 1st respondent rejected the stay application. Hence, this writ petition.

Heard the learned counsel for the petitioner and the learned Government Pleader for Civil Supplies.

The petitioner feels aggrieved by the rejection of stay by the 1st respondent in the appeal preferred by him against the order of suspension. Clause 5(4) of the A.P. State Public Distribution System Control Order, 2001, empowers the 2nd respondent to suspend the authorization. If the suspension is ordered as a measure, pending enquiry, it need not be preceded by any notice. However, where it is inflicted as a substantive punishment, an enquiry has to be held before passing such order. In this case, *prima facie*, it is evident that the very fact that the suspension was directed for a period of two months and no enquiry thereafter is contemplated. It has to be treated as a substantive punishment. Admittedly, the order was not preceded by any notice. Further, when the suspension itself is for a period of two months, the rejection of application for stay and to propose to hear the appeal after the period of two months, would render the entire exercise futile.

For the foregoing reasons, order dated 20.10.2004, passed by the 2nd respondent is suspended, pending disposal of the appeal by the 1st respondent. Accordingly, the writ petition is allowed. There shall be no order as to costs.

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L.NARASIMHA REDDY, J

Dated : 2nd December, 2004

Note: Office to furnish copy

in three days.

(B/o.)

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To

1 The Joint Collector
Ongole, Prakasam Dist.
2 The Revenue Divisional Officer
Markapur, Prakasam Dist.
3 The Mandal Revenue Officer
Bestavaripeta (M), Prakasam Dist.

4 2 CCS to the G.P. for Civil Supplies, High Court of A.P., Hyderabad (OUT).

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